IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

R.S.A. No. 1151 of 2003
Date of decision: January 18,2007

Gian Singh V. Smt. Surinder Kaur and another

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL

Present: Shri Puneet Bali,Advocate with
Shri Ranjit Saini, Advocate for appellants in RSAs No.1151 and 1175 of 2003
Shri H.S.Bhullar, Advocate, for respondent No.1 in both the appeals.

Shri H.S.Bhullar, Advocate for the appellant in RSA No.1403 of 2006.
Shri Puneet Bali,Advocate, for respondent No.1.

Viney Mittal,J.

This order shall dispose of three Regular Second Appeals being RSA Nos.1151, 1175 of 2003 and 1403 of 2006. All the three appeals have arisen out of two suits between the same parties, which have been disposed of by common judgments by both the courts below.

The dispute relates to the estate left behind by Sucha Singh. The rival claimants are his sons, Gian Singh and Rachhpal Singh and his daughter Surinder Kaur.

Gian Singh filed a suit claiming that he is owner in possession of half share of the suit land, the other half being owned and in possession of Rachhpal Singh. It was claimed by him that Sucha Singh had land in village Jajjo Majra and village Virk and had left behind a registered will dated February 9,1994 whereby he had bequeathed his land in favour of Gian Singh and Scuha Singh excluding his daughter, Surinder Kaur. The mutation had been entered on the basis of the aforesaid will with regard to the land in village Virk but Surinder Kaur had wrongly claimed that land in village Jajjo Majra was to devolve as per natural succession and,therefore, had wrongly got entered her own name also qua the land in village Jajjo Majra. The aforesaid plaintiff claimed that village

Jajjo Majra was a village Bai Chirag (not habitated) and,therefore, the will in question operated qua the aforesaid land also and even the land in village Jajjo Majra was liable to be inherited by both the sons i.e. Gian Singh and Rachhpal Singh in equal shares.

The said suit was contested by Surinder Kaur. She admitted the relationship between the parties. However, she denied that any will had ever been executed by their father, Sucha Singh, as claimed by the plaintiff, Gian Singh. On the other hand, it was claimed by Surinder Kaur that the entire property left behind by Sucha Singh was liable to devolve upon all the heirs in equal shares.

A separate suit was filed by Surinder Kaur. Similar pleas were taken by her as in the written statement filed by her in the other suit. The execution and validity of the will dated February 9,1994 executed by Sucha Singh was challenged. She claimed that mutation of the land in favour of Gian Singh and Rachhpal Singh in village Virk was also illegal and was liable to be set aside.

This suit was contested by Gian Singh. He set up the will dated February 9,1994 executed by Sucha Singh.

Both the suits were consolidated by the trial court.

On the basis of the evidence led by the parties, the trial court upheld the due execution and validity of the will dated February 9,1994. It was held that Sucha Singh had executed the aforesaid will and there were no suspicious circumstances surrounding the said will. However, the trial court held that the said will merely pertained to the property left behind by Sucha Singh in village Virk but did not deal with his property left behind in village Jajjo Majra. In these circumstances, the trial court came to the conclusion that mutation of the land left behind by Sucha Singh in village Virk had rightly been entered in the names of two sons of Sucha Singh. It was further held that the mutation of land left behind by Sucha Singh in village Jajjo Majra had also been rightly entered in the names of the two sons and daughter of Sucha Singh. On the strength of the aforesaid findings, both the suit filed by Gian Singh and Surinder Kaur were dismissed by the trial court.

Three separate appeals were filed before the first appellate Court. Two appeals were filed by Gian Singh. One appeal was filed by Surinder Kaur. Learned first appellate Court reappraised the entire evidence and affirmed all the findings

recorded by the trial court. All the three appeals were consequently dismissed.

It is,in these circumstances, that three Regular Second Appeals have been filed before this court. Two appeals have again been filed by Gian Singh. One appeal has been filed by Surinder Kaur.

After hearing the learned counsel for the parties at some length,I do not find any scope for interference by this court in these Regular Second Appeals.

The due execution of the Will Ex.P1 dated February 9,1994 stands clearly proved. No suspicious circumstance has been brought to my notice to come to any contrary findings. In these circumstances, I do not find any merit in the grievance made by Surinder Kaur and as such find that RSA No.1403 of 2006 has no merit.

A perusal of the Will Ex.P1 shows that it only mentions the property in village Virk. There is no mention of village Jajjo Majra. It is proved on record that Sucha Singh owned property in two villages. Hadbast of the two villages is separate and distinct. It cannot be accepted that the Will Ex.P1 which mentions only the land in village Virk, can also be read with regard to village Jajjo Majra. The findings of fact recorded by the two courts below in this regard do not need any interference. Thus, RSA Nos.1151 and 1175 of 2003 are also without any merits.

As a result of the aforesaid discussion,I find no merit in all the three appeals. The same are dismissed.

January 18,2007 (Viney Mittal)
sks Judge